

Contract Tracking No.: CM 3171

Bid No.: NC21-029

**CONTRACT FOR AMERICAN BEACH WATER AND SEWER DISTRICT WELL AND SEPTIC TANK
PHASE OUT PROGRAM**

THIS CONTRACT is dated on _____, by and between **AMERICAN BEACH WATER AND SEWER DISTRICT**, hereinafter referred to as the "County" and **U.S. WATER SERVICE CORPORATION**, 4939 Cross Bayou Boulevard, New Port Richey, Florida 34652 hereinafter referred to as the "Contractor".

The County and the Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

- 1.01 The Contractor shall complete all Work as specified or indicated in the Contract Documents as defined in Article 10. The Work is generally described as American Beach Water and Sewer District Well and Septic Tank Phase Out and includes, but is not limited to:

Site furnishing of all equipment, labor, materials and supervision necessary for American Beach sewer and water improvements, including but not limited to all demolition, proper disposal, pump, pipe, structure, and valve installation, electrical and mechanical installation, associated site grading and restoration, all associated materials, labor and equipment, and all incidental work as called for in the Contract Documents complete and in place. The Contractor shall furnish, install, test and place in operation the water main, sanitary system, and pumping stations shown on the drawings and specified hereinafter. All applicable sections of Nassau County's Roadway and Drainage Standards and JEA's 2021 Water and Wastewater Standards shall be considered part of this Work. All references to Industry Standards (ASTM, ANSI, etc.) shall be to the latest revision unless otherwise stated. Only those materials included in the JEA Water and Wastewater Standards Manual, unless called different within the Contract Documents, shall be installed. All materials shall be new unless specifically called for otherwise. All pipe, fittings, valves, structures, pumps and panels shall require a complete shop drawing submittal, as detailed in this specification for review and approval prior to the start of construction.

All Work shall be in accordance with the construction drawings, specifications, and Contract Documents.

ARTICLE 2 – THE PROJECT

- 2.01 The Project is for the Work referenced in Article 1 and the Contract Documents and is generally described as follows:

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Nassau County, Florida

ARTICLE 3 – ENGINEER OF RECORD

- 3.01 The Project has been designed by the Wade Trim, Inc., on behalf of Florida Governmental Utility Authority (FGUA), who is to act as the County's representative, assume all duties and responsibilities and have the rights and authority assigned to Engineer of Record in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 Time is of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and Completion and readiness for Final Payment as stated in the Contract Documents are of the essence of the Contract.
- B. The Contractor hereby agrees to commence work under this Contract on a date to be specified in written "Notice to Proceed" of the County and to fully complete the Project as specified in Paragraph 4.02 of this Contract.
- C. Under no condition, shall written Notice to Proceed be issued until Contractor has provided the Performance and Payment Bonds specified in the Contract Documents.

4.02 Days to Achieve Substantial Completion and Final Payment

The Work will be substantially completed within 550 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions, and completed and ready for Final Payment in accordance with Paragraph 14.07 of the General Conditions within 30 calendar days from the date of Substantial Completion. Total Contract Time shall be 580 calendar days; for everyday the Work goes beyond Substantial Completion, a day will be removed from Final Completion so the total days equal 580 calendar days.

4.03 Liquidated Damages

- A. The Contractor and the County recognize that time is of the essence of this Contract and that the County will suffer financial loss if the Work is not completed within the

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times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in legal or arbitration proceeding the actual loss suffered by the County if the Work is not completed on time. Accordingly, instead of requiring any such proof, the County and the Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the County \$1,000.00 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion and until the Work is substantially complete. After Substantial Completion, if the Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by the County, the Contractor shall pay the County \$500.00 for each day that expires after the time specified in Paragraph 4.02 for Completion and readiness for Final Payment until the Work is completed and ready for Final Payment.

ARTICLE 5 - CONTRACT PRICE

5.01 The County shall pay the Contractor for completion of the Work in accordance with the General Conditions and Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Article 14 "Payments to Contractor" of the General Conditions and Paragraphs 5.01A and 5.01B below:

- A. For all Work, at the prices stated in the Contractor's Bid.
- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in Contractor's Bid for a Total of All Unit Prices of:

**Seven Million Eight Hundred Thirty-one Thousand Five Hundred Thirty-Eight
Dollars and Zero Cents**

\$7,831,538.00

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by the Engineer of Record as provided in Paragraph 9.07 of the General Conditions. The Final Payment for all Unit Price Work shall be an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual

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completed and accepted quantity of each item. Unit Prices have been computed as provided in Paragraph 11.03 of the General Conditions.

Lump sum price has been computed in accordance with Paragraph 11.01 of the General Conditions.

All specific cash allowances are included in the price(s) set forth above and have been computed in accordance with Paragraph 11.02 of the General Conditions.

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. The Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by the County as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. The County shall make progress payments on account of the Contract Price on the basis of the Contractor's Applications for Payment once each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

- 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or the County may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

- a. 95% percent of the Work completed (with the balance being retainage)
- b. 95% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

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2. Upon Substantial Completion, the County shall pay an amount sufficient to increase total payments to the Contractor to 95% percent of the Contract Price (with the balance being retainage), less such amounts as the Engineer of Record shall determine or the County may withhold, for incomplete Work and for other items in accordance with Paragraph 14.02 of the General Conditions.

6.03 Final Payment

- A. Upon Final Completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, the County shall pay the remainder of the Contract Price as recommended by the Engineer of Record as provided in said Paragraph 14.07.
- B. Final Release of Retainage and acceptance of the project must be approved by the Board of County Commissioners.

ARTICLE 7 - INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 0 percent per annum.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce the County to enter into this Contract, the Contractor makes the following representations:
 - A. The Contractor is or has been prequalified by Florida Department of Environmental Protection (FDEP) for the Work required by this Contract.
 - B. The Contractor has examined and carefully studied the Contract Documents including the General Conditions and the other related data identified in the Bidding Documents.
 - C. The Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - D. The Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

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- E. The Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.
- F. The Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by the Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- G. The Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- H. The Contractor is aware of the general nature of Work to be performed by the County and others at the Site that relates to the Work as indicated in the Contract Documents.
- I. The Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- J. The Contractor has given the Engineer of Record written notice of all conflicts, errors, ambiguities, or discrepancies that the Contractor has discovered in the Contract Documents, and the written resolution thereof by the Engineer of Record is acceptable to the Contractor.

- K. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Contract
2. Addenda (Attached hereto as Exhibit "A")
3. *Standard General Conditions of the Construction Contract* (Attached hereto as Exhibit "B")
4. *Supplementary Conditions* (Attached hereto as Exhibit "C")
5. *Florida Department of Environmental Protection State Revolving Fund Program Supplementary Conditions* (Attached hereto as Exhibit "D")
6. Technical Specifications (Attached hereto as Exhibit "E")
7. Plans and Drawings (Attached hereto as Exhibit "F")
8. Exhibits to this Contract incorporated by reference as if set forth herein (enumerated as follows):
 - a. Contractor's Bid (Attached hereto as Exhibit "G")
 - b. Documentation submitted by Contractor prior to Notice of Award
 - c. Project Manual Table of Contents
 - d. Construction Drawing Index
 - e. Performance Bond
 - f. Payment Bond
9. *Certificate of Liability Insurance* (Attached hereto as Exhibit "H")
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed
 - b. Work Change Directives
 - c. Change Orders
 - d. Certificate of Substantial Completion
 - e. Certificate of Final Inspection
 - f. Certificate of Engineer
 - g. Certificate of Final Completion
 - h. Contractor's release

- i. Drawings and plans
 - j. Supplemental Agreements/Contracts
 - k. The Contractor's Waiver of Lien (Partial)
 - l. The Contractor's Waiver of Lien (Final and Complete)
 - m. Subcontractor/Vendor's Waiver of Lien (Final and Complete)
 - n. Consent of Surety to Final Payment
 - o. Instructions to Bidders
 - p. The Contractor's Insurance Requirements, as set forth in the Bid Documents
- B. The documents listed in Paragraph 9.01.A are attached to this Contract (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Contract will have the meanings indicated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. The County and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the County and the Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

- A. Public Records Requirement:

The County is a public agency subject to Chapter 119, Florida Statutes. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 530-6010, RECORDS@NASSAUCOUNTYFL.COM, 96135 NASSAU PLACE, YULEE, FLORIDA 32097. Under this agreement, to the extent that the Contractor is providing services to the County, and pursuant to Section 119.0701, Florida Statutes, the Contractor shall:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if the Contractor does not transfer the records to the public agency.
4. Upon completion of the Contract, transfer, at no cost, to the public agency all

public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

5. A request to inspect or copy public records relating to a County contract for services must be made directly to the County's Custodian of Public Records. If the County does not possess the requested records due to the Contractor maintaining the public records, the County shall immediately notify the Contractor of the request for records. The Contractor must provide the records to the County or allow the records to be inspected or copied within a reasonable time. If the Contractor does not comply with the County's request for records, the County shall be entitled to enforce the contract provisions herein for failure to comply with the terms of the contract. Any Contractor which fails to provide public records to the County within a reasonable time may also be subject to penalties as provided under Section 119.10, Florida Statutes, including punishment by fine or may be guilty of committing a misdemeanor of the first degree for any willful and knowing violation.

- B. **Employment Eligibility.** Contractor must comply with F.S. 448.095 and use the United States Department of Homeland Security's E-Verify system ("E-Verify") to verify the employment eligibility of all persons hired by Contractor during the term of this Agreement to work in Florida. Additionally, if Contractor uses subcontractors to perform any portion of the Work (under this Agreement), Contractor must include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the Work. Contractor must include a requirement in the subcontractor's contract that the subcontractor use E-Verify to verify the employment eligibility of all persons hired by subcontractor to perform any such portion of the work. Answers to questions regarding E-Verify as well as instructions on enrollment may be found at the E-Verify website: www.uscis.gov/e-verify.

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IN WITNESS WHEREOF, the County and Contractor have signed this Contract in triplicate. One counterpart each has been delivered to the County, the Contractor, the Engineer of Record. All portions of the Contract Documents have been signed or identified by the County and the Contractor or identified by the Engineer of Record on their behalf.

This Contract will be effective on the date on which the Contract is signed and delivered by the last of the two parties to sign and deliver (which is the Effective Date of the Contract).

OWNERAmerican Beach Water and Sewer District

Signed: _____

Title: _____

Date: _____
[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

Phone: _____ FAX: _____

Approved as to form by County Attorney

Agent for service of process:

Signature

(If the Owner is a corporation, attach evidence of authority to sign. If the Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Contract.)

(If the Contractor is a corporation or a partnership, attach evidence of authority to sign.)

CONTRACTOR

Signed: _____

Title: _____

Date: _____

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

Phone: _____ FAX: _____

License _____

(Where applicable)

Initials _____

Initials _____